

**3. Remarks****Rejection of Claims 46-48 Under 35 U.S.C. §102(e) as Anticipated by Garrett**

In the office action dated June 13, 2003 the Examiner has allowed Claims 17, 21-25, 28, and 30-32, but has rejected Claims 46-48. Applicants respectfully point out that these claims depend from allowed Claim 17, and thus should also be allowable.

**Rejection of Claims 27, 29, 34 and 35 Under 35 U.S.C. §102(e) as Anticipated by Garrett**

Claims 27, 34 and 35 have been cancelled.

Claim 29 has been amended. As the Examiner notes, Garrett teaches inhalation of gases, and therefore Garrett cannot teach or suggest "substantially preventing the entry of the gaseous physiologically active agent into the trachea and lung."

**Rejection of Claims 51 - 55 Under 35 U.S.C. §102(e) as Anticipated by Samiotes**

Claims 51 - 55 have been amended.

As the Examiner notes, Samiotes discloses the inhalation of gases and therefore Samiotes cannot teach or suggest substantially preventing the entry of gas into the trachea and lung. Further, applicants respectfully point out that while Samiotes does, as the Examiner states, teach the use of a gas mixture containing both NO and CO<sub>2</sub> in addition to drugs, Samiotes specifically states that these must be mixed with air or oxygen (Col. 6, Lines 24-26), which is consistent with application of the gas through intentional inhalation. Samiotes does not specifically teach the use of a mixture of essentially pure CO<sub>2</sub> or of 70% or approximately 100% CO<sub>2</sub>, and, in fact, logically could not, as such mixtures would not generally be used for intentionally inhaled application. Thus, Claims 51-55 as amended are not anticipated or suggested by Samiotes.

**Rejection of Claims 49 - 50 Under 35 U.S.C. §103**

Claim 49 has been amended, and Claim 50 has been cancelled.

For the reasons noted above in the discussion of Claims 51-55, Samiotes cannot teach or suggest substantially preventing the entry of gas into the trachea and lung, and therefore cannot teach or suggest Claim 49 as amended.

**Addition of Claims 56 - 64.**

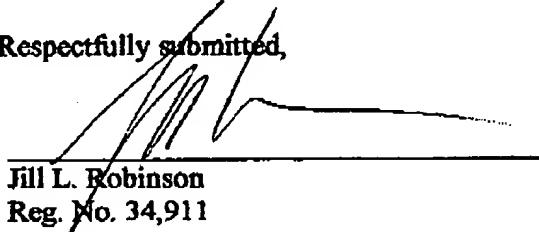
Applicants have added claims 56 - 64 to better claim the invention. Applicants respectfully submit that the limitations as a whole are not taught or suggested by known prior art. In particular, with respect to Claim 56-58 and 61-64, the limitations of the use of a mixture of essentially pure CO<sub>2</sub> or of 70% or approximately 100% CO<sub>2</sub>, is not taught or suggested. Each of these reads on the elected species of oral/nasal infusion and the use of CO<sub>2</sub>.

Claims 59 - 60 are claims which depend respectively from an allowed and, applicants assert, an allowable, generic claim.

4. Conclusion

For the reasons set forth above, applicants respectfully request reconsideration and allowance of previously rejected claims and allowance of added claims.

Respectfully submitted,

  
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Date: November 13, 2003

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